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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,027	03/31/2004	Boris Ginzburg	P18390	3833
72517 Shiloh et al. C/O INTELLIVATE, LLC P.O BOX 52050 MINNEAPOLIS, MN 55402	7590 05/19/2009		<div>EXAMINER</div> <div>WU, JIANYE</div>	
			<div>ART UNIT</div> <div>2416</div>	<div>PAPER NUMBER</div>
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,027

Applicant(s)

GINZBURG ET AL.

Examiner

Jianye Wu

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-81 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 44-81 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 4/3/09
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/18/09 have been fully considered but are moot because all independent claims have been amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 44-58, 62, 64, 66, 68, 70, 72-73 and 78-79** are rejected under 35 U.S.C. 102(e) as being anticipated by Bing et al. (US, 20040131084 A1, hereinafter Bing).

As to **claim 44, 50, 53 and 56**, Bing discloses a method, a processor-readable storage medium, a wireless device and a processor for transmitting between a wireless device and a plurality of stations, comprising:

a channel divider to divide a frequency bandwidth of a channel ("downlink DL from the base station BS to the subscriber terminals MT1, MT2, MT3", [0037] in view of FIG. 1 and 9) into a plurality of Frequency sub-channels (OFDM, [0020], line 11; by

definition Orthogonal Frequency Division Multiplexing, OFDM dividing frequency bandwidth of a channel into sub channels);

an allocator to allocate said plurality of frequency sub-channels to the plurality of stations based on received signal strength of the stations ("quality information about the transmission quality in the form of acknowledgements from the terminals MT1, MT2, MT3 is in turn sent back to the base station", [0046]);

a transmitter to transmit a multicast ("a Multicast connection", [0037]) transmission to the plurality of stations over substantially the entire frequency bandwidth of the channel ("the downlink DL from the base station BS to the subscriber terminals MT1, MT2, MT3", [0037]); and

a receiver to receive an acknowledgement signals (ACK or NAK, [0045] in view of FIG. 9) from said plurality of stations over said plurality of allocated frequency sub-channels.

As to **claim 45, 51, 54 and 57**, Bing discloses claim 44, 50 and 53, Bing further discloses said transmitter is to retransmit said multicast transmission if an acknowledgment (ACKs, FIG. 9) of said multicast transmission is not received from all of the plurality of stations ("data packets were transmitted incorrectly and have to be transmitted again", [0046], line 3).

As to **claim 46, 52, 55 and 58**, Bing discloses claim 44, 50 and 53, Bing further discloses comprising:

A controller for assigning a group to at least one of the plurality of stations (a multicast is always associated with a group, for example, terminals MT1, MT2 and MT3

are in a group as shown in FIG. 9 and [0046]), and wherein said transmitter is for transmitting said group assignment to said at least one of said plurality of stations (FIG. 7 or 9 and [0046]).

As to **claim 47**, Bing discloses the method of Claim 46, wherein said assignment is based on a received signal strength of said at least one of the plurality of stations (FIG. 9 or "transmission quality about the transmission quality in the form of acknowledgements from the terminals MT1, MT2, MT3 is in turn sent back to the base station", [0046]).

As to **claim 48**, Bing discloses the method of Claim 46, wherein said assignment is based on a dynamic range (distance and location of MTs to BS as shown in FIG. 8 and [0046]) of a receiver of said at least one of the plurality of stations (FIG. 8 and 9).

As to **claim 49**, Bing discloses the method of Claim 44, wherein the allocating includes allocating to a station a sub-channel of the plurality of sub-channels based on a signal strength of received acknowledgement signal from the station ("transmission quality about the transmission quality in the form of acknowledgements from the terminals MT1, MT2, MT3 is in turn sent back to the base station", [0046])

For **claims 62, 64, 66, 68 and 70**, Bing discloses a method, a processor-readable storage medium, a station and a processor for transmitting between a wireless communication station and a wireless communication device, comprising:

A controller to receive an allocation of frequency sub-channel from a plurality of frequency sub-channels within a frequency bandwidth of a channel (OFDM, [0020], line 11; by definition Orthogonal Frequency Division Multiplexing, OFDM dividing frequency

bandwidth of a channel into sub channels), wherein said frequency sub-channel is allocated to the station based on a received signal strength of the station ("downlink DL from the base station BS to the subscriber terminals MT1, MT2, MT3", [0037 in view of FIG. 1 and 9);

a receiver to receive a multicast transmission from the wireless device over said uplink sub-channel ("bi-directional communication connection with an uplink UP from the subscriber terminals MT1, MT2, MT3 to the base station BS", [0037] and FIG. 9) and

a transmitter to transmit to the wireless device an acknowledgment over said allocated frequency sub-channel (ACKs, FIG. 9); and

a dipole antenna operably connected to said transmitter and said receiver [claim 70 only] ("spatially separating antennae such as sectorizing antennae or adaptive antennae", [0040]).

For **claim 72 and 78**, they are a combination of claims 44 and 62, and 53 and 66, respectively, therefore are reject for the same reasons explained above.

As to **claim 73 and 79**, Bing discloses a method of claim 72 and a wireless device system of claim 78, respectively, wherein said transmitter of said wireless device is for **retransmitting** said multicast transmission if an acknowledgment of said multicast transmission is not received from all of said plurality of stations ("this **repeat transmission** can in principle also proceed in a Broadcast method according to FIG. 5 but can also proceed using a targeted manner based on the precise knowledge of which terminals have to receive which data packets again, as shown in FIG. 8", [0046]).

Claim Rejections - 35 USC § 103

4. The **following** is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 59-61 and 70** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bing as applied to claim 20 above, and further in view of Kapoor et al (US 6795424, hereinafter Kapoor).

For **claim 59**, it is the wireless device of claim 53, further comprising a dipole antenna operably connected to said transmitter and said receiver. Bing discloses the wireless device of claim 53, but **is silent on** the dipole antenna.

In the same field of endeavor, Kapoor discloses using the dipole antenna ("two dipole antenna elements", Col. 17, line 34) connected to said transmitter and said receiver.

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to modify Bing by Kapoor to connect a dipole antenna to said transmitter and said receiver of the wireless device in order to reduce cost (Kapoor Col. 17, line 40).

As to **claim 60**, Bing and Kapoor disclose the wireless device of Claim 59, wherein said transmitter is for retransmitting said multicast transmission if an acknowledgment of said multicast transmission is not received from all of said plurality of stations ([0046]).

As to **claim 61**, Bing and Kapoor disclose the wireless device of Claim 59, Bing further discloses an assignor for assigning a group to at least one of said plurality of stations, and wherein said transmitter is for transmitting said group assignment to said at least one of said plurality of stations (FIG. 8 and [0046]).

For **claim 70**, Bing discloses a method, a processor-readable storage medium, a station and a processor for transmitting between a wireless communication station and a wireless communication device, comprising:

A controller to receive an allocation of frequency sub-channel from a plurality of frequency sub-channels within a frequency bandwidth of a channel (OFDM, [0020], line 11; by definition Orthogonal Frequency Division Multiplexing, OFDM dividing frequency bandwidth of a channel into sub channels), wherein said frequency sub-channel is allocated to the station based on a received signal strength of the station ("downlink DL from the base station BS to the subscriber terminals MT1, MT2, MT3", [0037 in view of FIG. 1 and 9);

a receiver to receive a multicast transmission from the wireless device over said uplink sub-channel ("bi-directional communication connection with an uplink UP from the subscriber terminals MT1, MT2, MT3 to the base station BS", [0037] and FIG. 9) and

a transmitter to transmit to the wireless device an acknowledgment over said allocated frequency sub-channel (ACKs, FIG. 9).

Bing is silent on a dipole antenna operably connected to said transmitter and said receiver.

In the same field of endeavor, Kapoor discloses using the dipole antenna ("two dipole antenna elements", Col. 17, line 34) connected to said transmitter and said receiver.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Bing by Kapoor to use the dipole antenna to said transmitter and said receiver of the wireless device in order to reduce cost (Kapoor Col. 17, line 40).

6. **Claims 63, 65, 67, 69 and 81**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bing in view of Hayashi et al (US 20030147392 A1, hereinafter Hayashi).

As to **claims 63, 65, 67, 69 and 81**, Bing discloses claims 62, 64, 66, 68 and 78, but does not explicitly disclose requestor for requesting membership in a group

comprising at least one station; and wherein said transmitter is for transmitting said group membership request to the wireless device.

In the same field of endeavor (communication multicasting), Hayashi the each station transmits a request for the group membership ("each one of the one or more client hosts includes request means for transmitting a multicast control packet for requesting joining or leaving a multicast group", claim 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bing with Hayashi to include a requestor for requesting membership in a group and said transmitter is for transmitting said group membership request to the wireless device in order to achieve the desired requirements.

7. **Claim 71**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bing in view Kapoor, further in view of Hayashi et al (US 20030147392 A1, hereinafter Hayashi).

As to **claim 71**, Bing in view of Kapoor discloses claims 70, but does not explicitly disclose requestor for requesting membership in a group comprising at least one station; and wherein said transmitter is for transmitting said group membership request to the wireless device.

In the same field of endeavor (communication multicasting), Hayashi the each station transmits a request for the group membership ("each one of the one or more

client hosts includes request means for transmitting a multicast control packet for requesting joining or leaving a multicast group”, claim 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bing in view of Kapoor with Hayashi to include a requestor for requesting membership in a group and said transmitter is for transmitting said group membership request to the wireless device in order to achieve the desired requirements.

8. **Claims 74-77 and 80** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bing in view of Senga et al (US 20020065928 A1, hereinafter Senga).

As to **claim 74 and 80**, Bing discloses claim 72 and 78, wherein said wireless device further comprises an assignor (suggested by means for assigning the multicast group comprising MT1, MT2 and MT3 as shown in FIG. 7) for assigning a group to at least one of said plurality of stations (MT2, MT2 and MT3, [0046], line 7-12);

Bing does not explicitly disclose said transmitter is for transmitting said group assignment to said at least one of said plurality of stations

In the same field of endeavor (communication multicasting), Senga discloses said transmitter is for transmitting said group assignment to said at least one of said plurality of stations (“the host conference terminal capable of issuing a request for division into groups is assigned to a terminal 100-1, and a conference terminal 100-3 selects stream data to be received according to the division request”, [0068]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Bing with Senga to transmit said group assignment to said at least one of said plurality of stations to achieve the desired requirements.

As to **claim 75**, Bing in view of Senga discloses the method of claim 74, wherein said assignment is based on a received signal strength (transmission quality, [0046]) of said at least one of the plurality of stations.

As to **claim 76**, Bing in view of Senga discloses the method of claim 74, wherein said assignment is based on a dynamic range (distance and location of MTs to BS as shown in FIG. 8 and [0046]) of a receiver of said at least one of the plurality of stations.

As to **claim 77**, Bing in view of Senga discloses the method of Claim 74, wherein said transmitting of said multicast transmission by the wireless device is to all stations assigned to said group (multicast, [0037], last 2 lines).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianye Wu whose telephone number is (571)270-1665. The examiner can normally be reached on Monday to Thursday, 8am to 7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571)272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jianye Wu/
Examiner, Art Unit 2416
/Seema S. Rao/
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